

**TOWN OF FOUNTAIN HILLS  
MINUTES OF THE REGULAR AND EXECUTIVE SESSIONS OF THE  
FOUNTAIN HILLS TOWN COUNCIL  
JANUARY 21, 2016**

**REGULAR SESSION**

\* **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Kavanagh called the meeting to order at 6:30 p.m.

- \* **INVOCATION** - Mayor Kavanagh announced that today with them is Leti Denny-Brown, a member of the B'hai Faith of Fountain Hills.

Mayor Kavanagh announced that the Executive Session will convene after the Regular Session adjourns.

- \* **ROLL CALL** - Present for roll call were the following members of the Town Council: Mayor Linda Kavanagh, Vice Mayor Henry Leger, Councilmember Nick DePorter, Councilmember Cecil Yates, Councilmember Cassie Hansen, Councilmember Alan Magazine, and Councilmember Dennis Brown. Town Manager Grady E. Miller, Town Attorney Andrew McGuire and Town Clerk Bevelyn Bender were also present.

\* **MAYOR'S REPORT**

- ii) **The Mayor will read a Proclamation declaring January 28, 2016 Pony Express Day in the Town of Fountain Hills.**

Mayor Kavanagh advised that between 1860 and 1861, the Pony Express mail service was offered between Missouri and California which became an iconic part of U.S. Western History; and in 1959 the Pony Express was remembered in Arizona by the members of the Hashknife Posse, who carried mail on horseback over 200 miles from Holbrook to Scottsdale, a ride which has since become an annual commemorative event and whereas Fountain Hills is the next to last stop on their trek, January 28, 2016 is hereby proclaimed to be Hashknife Pony Express Day in the Town of Fountain Hills. She stated that all Town residents, visitors and residents and visitors of the Lower Verde River Valley are invited to join in the festivities and dress western to commemorate this part of our history in the West.

- ii) **The Mayor will read a Proclamation declaring January 2016 as National Mentoring Month in the Town of Fountain Hills.**

Mayor Kavanagh stated that across our nation mentors steer our youth through challenging times and support their journey into adulthood and during National Mentoring Month we honor these important individuals who unlock the potential and nurture the talent of our country. She emphasized that the dedication of mentors has helped countless young men and women succeed when they might otherwise have fallen short of their full potential and coaches, community leaders, tutors and trusted friends are working to mentor today's youth to develop tomorrow's leaders. She added that the contributions of these engaged adults extend beyond the lives they touch and have a lasting impact that strengthens our country and our future. She pointed out that 92 adults are involved in the Mentoring Program in Fountain Hills and 105 children in the Fountain Hills' schools are being mentored. She stated that she, Linda M. Kavanagh, Mayor of the Town of Fountain Hills, Arizona do hereby proclaim January 2016 as National Mentoring Month in the town of Fountain Hills and on behalf of the Town Council hereby thank all of the mentors who have contributed to the lives of young people in their Town. She noted that they have mentors present in the audience and asked Roger Riggert to come forward for a group picture. Mr. Riggert introduced the members of the Mentor Council present, Sandy Davis; Joanne Meehan and explained that the Mentor Council coordinates and directs the program.

Mayor Kavanagh thanked the members for all of the hard, worthwhile work they perform and noted that they are part of the Golden Eagle Foundation and are present this evening representing all of those mentors. The Mayor stated that she will see them at the Mentoring Breakfast.

\* **SCHEDULED PUBLIC APPEARANCES/PRESENTATIONS**

i) **Mayor Kavanagh may review recent events attended relating to Economic Development**

Mayor Kavanagh discussed that the Greater Phoenix Economic Council (GPEC) Board of Directors' meeting just this morning and said that they have come out with a long-term Strategic Plan, looking ahead to 2019. She noted that the objective is to strengthen GPEC's competitiveness in business attraction and to drive quality job creation. She added that they have also done a market intelligence study to help direct the future trajectory of the region, to make us more competitive with other states. She reported that GPEC involved all of its members and she was able to contribute the needs of Fountain Hills as a small member community and she will also be meeting with the Director, Chris Camacho, in February. She advised that her goal is to make sure that Fountain Hills is a strong and viable part of GPEC.

**CALL TO THE PUBLIC**

None.

**CONSENT AGENDA**

**AGENDA ITEM #1 - CONSIDERATION OF APPROVING THE TOWN COUNCIL MEETING MINUTES FROM JANUARY 7, 2016.**

**AGENDA ITM #2 - CONSIDERATION FOR APPROVAL OF RESOLUTION 2016-03, ABANDONING WHATEVER RIGHT, TITLE OR INTEREST THE TOWN HAS IN THE CERTAIN PUBLIC UTILITY AND DRAINAGE EASEMENT LOCATED AT THE REAR PROPERTY LINE OF PLAT 505-D, BLOCK 2, LOT 46 (15527 E. GRASSLAND DRIVE), AS RECORDED IN BOOK 158, PAGE 41, RECORDS OF MARICOPA COUNTY, ARIZONA. EA2016-01.**

Councilmember Hansen **MOVED** to approve the Consent Agenda as listed and Councilmember Yates **SECONDED** the motion.

A roll call vote was taken with the following results:

Mayor Linda Kavanagh	Aye
Councilmember Brown	Aye
Councilmember Nick DePorter	Aye
Councilmember Cecil Yates	Aye
Councilmember Cassie Hansen	Aye
Councilmember Alan Magazine	Aye
Vice Mayor Henry Leger	Aye

The motion **CARRIED UNANIMOUSLY** (7-0).

**REGULAR AGENDA**

**AGENDA ITEM #3 - CONSIDERATION OF RESOLUTION 2016-01, ESTABLISHING THE SISTER CITIES ADVISORY COMMISSION AND ADOPTING BYLAWS FOR ITS GOVERNANCE. THIS ITEM WAS TABLED AT THE JANUARY 7, 2016 COUNCIL MEETING.**

Town Manager Grady E. Miller addressed the Council and stated that the item before them is a request to establish a Sister Cities Advisory Commission and noted that this request was on the prior Council meeting's agenda. He added that there was some discussion on the benefits of such an Advisory Commission back in October and essentially what is before them this evening is a 7-member body that would report to the Mayor and Council advising them on Sister City related activities. He stressed that this does not replace the Sister Cities Corporation but rather would augment and actually be very complementary and help that organization. He stated that prior to the last Council meeting some concerns were expressed because they didn't really understand what was before the Council. He noted that he attended the Board Meeting at the invitation of Jackie Miles and had a good opportunity to discuss all the different elements of this Advisory Commission. He reported that after going through that there was an affirmative vote for approval by the

Fountain Hills Sister Cities Corporation. He added that based on some of the information that they received from the President and the Board some modifications were made to what was presented at the last Council meeting. He said that previously staff had recommended that two Boardmembers from the Sister Cities Corporation serve on it but after the discussion it was recommended that they add another position so that there would be three of the seven on the Sister Cities Advisory Commission from the Corporation. He added that there were some minor modifications made to the resolution before the Council but they really have to do with a change in the Mission so that the Sister Cities International Mission was reflected in the resolution and they also changed the meeting frequency from monthly to at least quarterly. He indicated his willingness to respond to any questions from the Council and said that members of the Board of Directors, including Jackie Miles who is the President, is present in the audience should the Council wish to ask her any questions regarding the Sister Cities Corporation.

Councilmember Hansen advised that when this came up she did wonder about adding a Commission because they went through that whole exercise of consolidation so she wondered whether Mr. Miller felt very strongly that this was justified (the addition). Mr. Miller responded that he felt horrible because he knows this issue has a history and here he is adding a recommendation to add one more Commission. He stated that he will take the ownership of this one and is happy to act as the liaison. He said that Sister Cities are relationships between cities and they have been very fortunate to have an outstanding Sister Cities organization that has helped the Town with that but when they enter into a Sister City relationship, it is for the long run and he is looking at 100 years or 200 years and it is hard for them to imagine that. He pointed out that the relationships are like treaties and said that in this country treaties go back many hundreds of years in many cases so the point is it is really the responsibility of the Town to take this seriously. He reported that there are a variety of different cities around the country that have non-profits like the ones in Fountain Hills but this provides some sustainability in the long run for the organization because we are basically the ones who have signed the partnership agreement -- our Mayor and the Mayors of our Sister Cities. He added that this is really putting the responsibility on them to maintain this forever.

Councilmember Hansen commented that as long as the Board unanimously supports this, she feels they will have their autonomy as well, it will be a coordinated effort.

Mr. Miller stated that he believes there is some excitement here because he thinks that there is some benefits to the organization as well (he provided some brief examples of those benefits).

Jackie Miles, President of the Sister Cities organization, addressed the Council and said that the organization is in total support of this Commission and working together with them to get a better, stronger Sister Cities organization.

Vice Mayor Leger asked what process will be put into place for filling Commissioner positions and Mr. Miller explained that originally there was a request from Ms. Miles on behalf of her board to put some language in the resolution relative to the fact that the organization would appoint people and then let the Town Manager, Mayor and Council know who would be serving. He said that he told her that this is a Town Advisory Board so what would be best would be for them to send a letter saying these are the names of the individuals they would recommend. He added that they would still follow their current procedure where the Mayor recommends. He said he knows that the Mayor would take the request into consideration when selecting appointments. He further stated that because the resolution does state that there has to be three current boardmembers, the Town would rely on them to let them know who is currently serving and who would be the best candidates but they didn't want to make that change to the resolution. He further stated that staff will be coordinating that.

Councilmember Yates **MOVED** to approve Resolution 2016-01, establishing a Sister Cities Advisory Commission and by-laws for its governance and Councilmember DePorter **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0).

**AGENDA ITEM #4 - DISCUSSION WITH POSSIBLE DIRECTION TO STAFF RELATING TO ANY ITEM INCLUDED IN THE LEAGUE OF ARIZONA CITIES AND TOWNS WEEKLY LEGISLATIVE BULLETIN OR RELATING TO ANY ACTION PROPOSED OR PENDING BEFORE THE STATE LEGISLATURE.**

Mayor Kavanagh advised that everyone has received an updated Legislative Bulletin from the League of Arizona Cities & Towns. She said that they would start with HB2026, which is the Residential Rental and noted that this was brought up at the last Session by Representative Mitchell and it was to exempt landlords from paying rental tax. She

reported that last Session he wanted it to apply to all rental properties and this time he is asking for just those municipalities with populations over 100,000. She said that the League is recommending that the Town oppose that and first of all the Town is going to be losing approximately \$158,000 and lots of other cities and towns will be losing more. She stated that right now she believes this is only going to affect eight cities, but it is expected that if this passes they will probably expand it to include the Town so the League is asking the Town to join them in opposing this.

Mr. Miller advised that from the discussion he can see that there is a consensus for staff to send an official Letter of Opposition from the Town of Fountain Hills regarding this matter and the Mayor concurred with that statement.

Mayor Kavanagh noted that they could also register with the Legislature if they wanted to go down there and speak on it, there are options for individuals as well as groups.

Mayor Kavanagh referred to HB2267, the Transaction Privilege Tax (TPT) bill, and noted that it has reared its ugly head again. She advised that according to the League this is just going to complicate this more and they don't see it solving any of the problems so they are asking the Town to join them in opposing this proposed piece of legislation.

Vice Mayor Leger commented that he would agree 100% with the League's stance and stated that he had the time to read through the bill.

The Mayor said that according to the League it seems to be solving one person's problem and creating problems for everyone else.

Mayor Kavanagh stated that someone on the Council wanted to talk about HB2115 - Public Employees: Misappropriation Penalty. She added that she does not know which Councilmember wanted to talk about this.

Mr. Miller advised that this came up in the conference call and the League and the cities and towns clearly oppose this because they feel like this is a reach into their sovereignty as municipalities (it goes far beyond what the title of it states as far as penalties -- even loss of pensions for offenders).

Mayor Kavanagh said that another issue with this is that Arizona is a community property State and according to the A.R.S. they wouldn't be able to deny benefits to the spouses involved so this will probably not get anywhere.

The Mayor noted that another one is HB2024 - Sovereign Authority, and ask who wanted to speak on this one.

Vice Mayor Leger stated that he brought this one up at their last Council meeting and asked for some clarification on the bill itself. He asked whether the Town Manager or Town Attorney could please weigh in on it.

Town Attorney Andrew McGuire indicated his intention to take a stab at what he thinks might be the point of the bill and pointed out that it essentially says that a municipal employee or anybody else can't comply with an Executive Order, a decision of the Supreme Court of the United States or an Agency Order, so essentially the Town couldn't comply with the Reed case that just came down unless the holding of the Reed case was adopted as law by Congress. He added that they couldn't comply with ADEQ or the Federal Government's versions of environmental quality unless Congress approved those as law. He said it is essentially saying that the separation of powers doesn't matter, Congress is the supreme law of the land and nothing can happen without them. He expressed the opinion that the bill is so patently unconstitutional that it really doesn't even merit any real kind of discussion but it is out there again. He added that he really hopes there is not a lot of energy and time spent on this bill but you never know with these things.

Mayor Kavanagh commented that they will mention that to the League and let them keep it on their radar. She confirmed that the League has not weighed in on this bill and stated the opinion that they are waiting to see if it goes anywhere. She reported that she heard that as of Tuesday there were already 650 bills dropped and they expected a lot more to go that way.

The Mayor advised that there was one other that she brought up to the League, it is not a bill and has not been dropped yet -- the Fine Art Industry is asking for tax exemption for art that is purchased here but shipped somewhere else. She pointed out that they tried this last year but now they are trying just on State tax and as they know, State tax is also part of their State Shared Revenue so as the State loses the tax they also lose the tax and they are probably going to be

losing some anyway because of the new census. She advised that one of her arguments was that she doesn't like carving out one particular group for a special exemption and added that art is a luxury and not necessarily a necessity. The Mayor provided additional input relative to the negative impacts and her concerns regarding this item. She assured everyone that if this comes up they will be watching it and expressing their views regarding it. She added that this was also brought up to Senator Kavanagh and one of the first things he asked them was "What exactly is the definition of fine art.? She said she looked it up and it could be just about anything. She further stated that she asked the League to get out in front and keep an eye on it coming up.

Councilmember Magazine noted that he ships a lot around the country and he does lose business when people find out that they have to pay a tax on top of shipping; however, he concurs with the Mayor's comments.

Mr. Miller said that the League has an outstanding conference call each Monday morning and he knows the Vice Mayor recently registered for that. He advised that any Councilmember can do the same and listen in and hear all the discussion on the various proposed pieces of legislation. He added that between Ms. Bender and himself the information will be sent out to the Council on how to register. He said they are also able to ask questions on the phone and receive valuable feedback.

#### **AGENDA ITEM #5 - COUNCIL DISCUSSION/DIRECTION TO THE TOWN MANAGER**

Items listed below are related only to the propriety of (i) placing such items on a future agenda for action or (ii) directing staff to conduct further research and report back to the Council.

- i) None.

#### **AGENDA ITEM #6 - SUMMARY OF COUNCIL REQUESTS AND REPORT ON RECENT ACTIVITIES BY THE MAYOR, INDIVIDUAL COUNCILMEMBERS AND THE TOWN MANAGER.**

Councilmember Yates announced that he and Councilmember Hansen had the pleasure of interviewing candidates for the Board of Adjustment and the idea was brought up and discussed about possibly taping more of the meetings for two reasons -- one, they have the ability and two, the tapings would become a permanent record so if anything is a little controversial they have a more permanent record to look back on. He explained that right now they are taping the audio and comparing it to the minutes but it's not transcribed and then after the minutes are approved they dispose of the tape. He stated that he spoke with Mike from IT and he had some great ideas including getting an intern on board who could also help with other meetings for other boards or getting a volunteer to help out. He advised that he thought that at multiple levels this might be well received so he wanted to put it out there for Council consideration.

Mr. Miller commented that if that is the consensus of the Council he will research it some more and come back with his findings and a plan.

Councilmember Yates said that that would be great because he would not like to place a bigger burden on Mike and this could create opportunities for high school students, volunteers, etc.

Mr. Miller informed the Council that most cities and towns broadcast Planning & Zoning meetings.

Mayor Kavanagh reported that she attended the opening day at the State Legislature with Senator Kavanagh and Sheriff Joe Arpaio. She said she was also able to talk briefly with Governor Ducey who always has very nice things to say about Fountain Hills. She added that she hopes someday they can get him to come out to visit them. She advised that Town Manager Grady E. Miller, Senator Kavanagh, Councilman Magazine and she took a tour of EPCOR'S water treatment plant here in Fountain Hills and said their guides were Jeff Stuck and Tim Williams, both very knowledgeable about the functioning of the facility, the underground water piping system and the future plans for improving service to the community. She added that they were able to not only see the new part of the facility that houses the computer monitoring system that alerts the staff to any problems in the distribution of their water supply, but the outdoor facilities area where the water is cleaned and treated. She further stated that she believes they all came away with a better understanding of the complexity of the operation and were pleased with the planned future improvements.

## **AGENDA ITEM #7 - ADJOURNMENT**

Councilmember Hansen **MOVED** to adjourn the meeting and Councilmember Brown **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0). The Regular Session adjourned at 7:03 p.m.

## **EXECUTIVE SESSION**

### **\* CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Kavanagh called the Executive Session to order at 7:10 p.m. in the Fountain Conference Room - 2nd Floor.

### **AGENDA ITEM #1 - ROLL CALL AND VOTE TO GO INTO EXECUTIVE SESSION:**

Present for roll call were the following members of the Town Council: Mayor Linda Kavanagh, Councilmember Dennis Brown, Councilmember Nick DePorter, Councilmember Cecil Yates, Councilmember Cassie Hansen, Councilmember Alan Magazine and Vice Mayor Henry Leger. Town Manager Grady E. Miller, Town Attorney Andrew McGuire and Town Clerk Bevelyn Bender were also present.

Pursuant to A.R.S. §38-431.03(A)(3), discussion or consultation for legal advice with the attorney or attorneys of the public body (*Specifically: An ethics complaint*).

Councilmember Brown **MOVED** to go into Executive Session at 7:10 p.m. and Vice Mayor Leger **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0).

### **AGENDA ITEM #2 - ADJOURNMENT.**

The Executive Session adjourned without objection at 8:15 p.m.

## **TOWN OF FOUNTAIN HILLS**

By \_\_\_\_\_  
Linda M. Kavanagh, Mayor

ATTEST AND  
PREPARED BY:

\_\_\_\_\_  
Bevelyn J. Bender, Town Clerk

### **CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Executive Session, held in the Fountain Conference Room - 2nd Floor and Regular Session held by the Town Council of Fountain Hills in the Town Hall Council Chambers on the 21st day of January, 2016. I further certify that the meeting was duly called and that a quorum was present.

DATED this 4<sup>th</sup> day of February, 2016.

\_\_\_\_\_  
Bevelyn J. Bender, Town Clerk